

## REMARKS

Claims 1-22 are pending in the present application. In the above amendments, claims 1, 10, 17-20 are amended, and new claims 21 and 22 added. Applicant has amended the claims solely to improve clarity of the invention and to fix typographical errors and not as a result of the Examiner's cited art. Applicant respectfully requests reconsideration of the pending claims in view of the following remarks.

102 Rejections

In the Office Action dated December 5, 2003, the Examiner rejected claims 1-5, 9-14, and 17-20 under 35 U.S.C. §102(b) as being anticipated by Mahany (US 5,862,171). Applicant respectfully traverses this rejection.

In the rejection, the Examiner contends *Mahany* discloses a wireless communication system with a remote station for triggering the transmission of parameters from a base station. The Examiner alleges that *Mahany* inherently includes a processing element for executing instructions stored in a memory, to determine if a stored set of parameters is current, and if so, decoding a packet, and if not, transmitting a re-transmission request on a reverse link to the base station. Applicant respectfully disagrees with the Examiner's interpretation of *Mahany*.

Applicant respectfully submits that *Mahany* fails to disclose "determining whether a stored set of transmission parameters is current; and if the stored set of transmission parameters is not current, then transmitting a retransmission request for a current set of transmission parameters on a reverse link to a base station" as is recited in claim 1 of the present invention. Applicant further submits that *Mahany* fails to disclose "transmitting a control message to a remote station, wherein the control message contains a set of transmission parameters by which a data packet is to be transmitted; monitoring a reverse link channel for a re-transmission request; if a re-transmission request arrives on the reverse link channel, then re-transmitting the control message; and if a re-transmission request does not arrive on the reverse link channel, then transmitting the data packet" as is claimed in claim 10 of the present invention. Applicant further submits that *Mahany* fails to disclose "...determining at remote station whether a set of transmission parameters stored at the remote station is current; if the stored set of transmission

parameters is not current, then transmitting a re-transmission request on a reverse link channel to a base station” as set forth in claim 17 of the present invention. *Mahany* also fails to disclose “...transmitting the control message to a remote station, wherein the control message contains a set of transmission parameters by which a data packet is to be transmitted; monitoring a reverse link channel for a re-transmission request; if a re-transmission request arrives on the reverse link channel, then re-transmitting the control message; and if a re-transmission request does not arrive on the reverse link channel, then transmitting the data packet” as claimed in claim 18 of the present invention. Applicant further submits that *Mahany* does not to disclose “...determining whether a set of transmission parameters stored at the remote station is current; if the stored set of transmission parameters is not current, then transmitting a re-transmission request on the reverse link channel to the base station, whereupon the base station re-transmits the control message” as set forth in claim 19 of the present invention. Lastly, *Mahany* fails to disclose “...means for monitoring a reverse link channel at the base station for a re-transmission request from the remote station; and means for determining at the remote station whether a set of transmission parameters stored at the remote station is current; means for transmitting a re-transmission request on the reverse link channel to the base station if the stored set of transmission parameters is not current...” as set forth in claim 20 of the present invention.

*Mahany* discloses if a transceiver receiving a transmission (hereinafter the “destination”) determines that an operating parameter needs to be changed, it must transmit a request for change to the transceiver sending the transmission (hereinafter the “source”). If received, the source may send a first acknowledge to the destination based on the current operating parameter. Thereafter, the source modifies its currently stored operating parameter, stores the modifications, and awaits a transmission from the destination based on the newly stored operating parameter.” (*Mahany*, col. 19, lns. 42-52) Additionally, in claim 1 of the cited art, *Mahany* discloses “...said base station responsive to transmissions received from said mobile terminal by evaluating the received transmissions and selectively directing said mobile terminal to adjust the size of data segments to be transmitted....” Applicant, on the other hand, claims a method and apparatus for a remote station to determine if its stored set of parameters are current, and if not, to request a base station to send the current set of parameters. *Mahany* discloses a source (i.e., a transmitting transceiver) to change transmission operating parameters based on a destination (i.e., receiving transceiver)

determining that the present transmission operating parameters are not optimal. Accordingly, Applicant does not claim a remote station requesting a base station to change one or more operating parameters based on its determination that one or more of the present parameters are not optimal; rather the remote station determines that the set of operating parameters are not current and requests a base station to send the current operating parameters.

Therefore, because *Mahany* does not teach each and every element of Applicant's invention as recited above in claims 1, 10 and 17-20, Applicant respectfully submits that the Examiner's rejection is not proper, and, thus claims 1, 10 and 17-20 of the present invention are allowable thereover for at least the reasons set forth above. Applicant further asserts that dependent claims 2-5, 9 and 11-14 should be allowable for at least the same reasons as their independent claims are considered patentable.

### 103 Rejections

The Examiner rejected claims 6, 7, 15, and 16 under 35 U.S.C. §103(a) as being unpatentable over *Mahany*.

The Examiner acknowledges *Mahany* fails to disclose using the fifth bit of a symbol. The Examiner contends, however, that such would have been an obvious engineering decision based on the type of symbol and slot/frame structure utilized by the system to transmit such data, and as such would have been an obvious modification.

Applicant has argued above that *Mahany* does not teach each and every element of independent claims 1 and 10, from which claims 6 and 15 indirectly depend, respectively. As such, even if, *arguendo*, a fifth bit of a symbol would be considered obvious, the *Mahany* reference with an obvious fifth bit fails to teach or suggest all of the elements of claims 6-7 and 15-16 since these claims indirectly depend from claims 1 and 10, respectively. As such, Applicant believes that dependent claims 6, 7, 15 and 16 should be allowable for at least the same reasons that their independent claims are patentable.

The Examiner rejected claims 8 under 35 U.S.C. §103(a) as being unpatentable over *Mahany* as applied in claim 1, and further in view of Willey (U.S. patent no. 6,505,058).

It is the Examiner's position that *Mahany* fails to disclose handoff and that *Willey* discloses a mobile communication system wherein transmission parameters may be updated by

the mobile station (col. 2, lines 4-28), wherein such may be accomplished after a handover is performed (col. 1, lines 14-35) and that it would have been obvious to add such a feature to *Mahany*.

Applicant has argued above that *Mahany* does not disclose a remote station to determine whether a set of transmission parameters on the remote station is current and requesting a transmission to the remote station for the current set of transmission parameters if it is determined that they are not current. Applicant submits that claim 8 depends directly from claim 1, and includes all the limitations thereof. As such, even if the *Mahany/Willey* references cited were properly combined, the references still fail to teach or suggest all of the elements of claim 8 for the same reasons as set forth above with regard to the rejection of claim 1.

### REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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